

By: Stickland

H.B. No. 649

A BILL TO BE ENTITLED

AN ACT

relating to tax reimbursement for businesses that refuse to comply with certain federal health care coverage requirements based solely on the religious convictions of the owners of the businesses; authorizing tax refunds and credits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 111, Tax Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. BUSINESS TAX REIMBURSEMENT FOR NONCOMPLIANCE WITH CERTAIN FEDERAL HEALTH CARE REQUIREMENTS

Sec. 111.401. DEFINITION. In this chapter, "emergency contraception" means a drug that:

(1) is used postcoitally;

(2) prevents pregnancy by preventing fertilization of an egg or preventing implantation of an egg in a uterus; and

(3) is approved by the United States Food and Drug Administration.

Sec. 111.402. ENTITLEMENT TO TAX REFUND OR CREDIT; AMOUNT.

(a) A qualified business is entitled to a refund of or credit against state sales and use taxes imposed under Chapter 151, state franchise taxes imposed under Chapter 171, and any other tax paid by the business to the state.

(b) The total amount of the refund or credit a qualified business may claim in a calendar year is equal to the lesser of:

1           (1) the amount of net state sales and use taxes,  
2 franchise taxes, and other state taxes paid by the business, after  
3 any other applicable credit, in the calendar year for which the  
4 refund or credit is requested; or

5           (2) the total amount of fines and penalties described  
6 by Section 111.403 and assessed for the reasons specified in  
7 Section 111.403(2) that were paid by the business in the calendar  
8 year for which the refund or credit is requested.

9           Sec. 111.403. QUALIFICATION FOR TAX REFUND OR CREDIT. A  
10 business qualifies for a tax refund or credit under this subchapter  
11 if:

12           (1) the business makes available to its employees a  
13 health benefit plan;

14           (2) the business refuses to make available as part of  
15 the health benefit plan coverage for emergency contraception as  
16 required by Section 1001(a)(5) of the federal Patient Protection  
17 and Affordable Care Act (42 U.S.C. Section 300gg-13), based solely  
18 on the religious convictions of the owners of the business;

19           (3) on or after January 1, 2013, the federal  
20 government assesses a fine or penalty against the business for  
21 failure to comply with the federal requirement described by  
22 Subdivision (2); and

23           (4) the business has paid the fine or penalty.

24           Sec. 111.404. PROCEDURE FOR CLAIMING REFUND OR CREDIT. (a)  
25 An application for a refund or credit must be made to the  
26 comptroller on a form prescribed by the comptroller.

27           (b) A qualified business must provide to the comptroller any

1 information the comptroller needs to determine the validity of an  
2 application. The burden of establishing entitlement to and the  
3 value of the refund or credit is on the business.

4 (c) Except as provided by Subsection (d), a qualified  
5 business must apply for a refund or credit under this subchapter  
6 before August 1 of the year after the calendar year for which the  
7 business requests the refund or credit.

8 (d) If a business requests a credit against franchise taxes  
9 under this subchapter, the business must claim the credit on or with  
10 the report for the accounting period on which the report is based.

11 (e) A refund payable under this subchapter does not earn  
12 interest.

13 Sec. 111.405. COMPTROLLER POWERS AND DUTIES. (a) The  
14 comptroller shall adopt rules and forms for the administration of  
15 this subchapter.

16 (b) The comptroller may conduct any audit the comptroller  
17 determines necessary for the enforcement or administration of this  
18 subchapter.

19 Sec. 111.406. EXPIRATION. This subchapter expires January  
20 1, 2016.

21 SECTION 2. The expiration of Subchapter H, Chapter 111, Tax  
22 Code, as added by this Act, does not affect a qualified business's  
23 right to claim a refund of or credit against state taxes that was  
24 established under Subchapter H, Chapter 111, Tax Code, before the  
25 date of expiration. A qualified business's right to claim a refund  
26 of or credit against state taxes that was established under  
27 Subchapter H, Chapter 111, Tax Code, before the date of expiration

1 is governed by the law in effect on the date the right to claim the  
2 refund or credit was established, and the former law is continued in  
3 effect for that purpose.

4 SECTION 3. (a) Except as provided by Subsection (b) of this  
5 section, this Act takes effect September 1, 2013.

6 (b) Section 111.405, Tax Code, as added by this Act, takes  
7 effect immediately if this Act receives a vote of two-thirds of all  
8 the members elected to each house, as provided by Section 39,  
9 Article III, Texas Constitution. If this Act does not receive the  
10 vote necessary for that section to have immediate effect, that  
11 section takes effect on the 91st day after the last day of the  
12 legislative session.